IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MRS. JUSTICE K.HEMA

WEDNESDAY, THE 10TH JANUARY 2007 / 20TH PAUSHA 1928

Crl.Rev.Pet.No. 856 of 1997()

CRA.197/1995 of SESSIONS COURT, ALAPPUZHA
CC.150/1993 of JUDL.MAGISTRATE OF FIRST CLASS, AMABALAPUZHA
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REVN. PETITIONER(S):

SOLOMON @ RAJU, VATTATHAYYIL VEEDU,
PUNNAPRA, ALAPPUZHA.

BY ADV. SRI.A.KUMAR.

RESPONDENT(S):

THE STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

PUBLIC PROSECUTOR SRI.C.K.SURESH.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.HEMA, J.

CRL.R.P.NO. 856 of 1997

Dated this the 10th day of January, 2007

O R D E R

Revision petitioner was convicted and sentenced under Section 279 of the Indian Penal Code to pay a fine of Rs.2,000/- and in default to undergo simple imprisonment for six months and under Section 337 IPC to undergo simple imprisonment for six months. He was also sentenced under Section 135A of the Motor Vehicles Act to pay a fine of Rs.500/- and in default to undergo simple imprisonment for one month and under Section 134(b) of the Motor Vehicles Act to pay a fine of Rs.500/- and in default to undergo simple imprisonment for one month. It was also ordered that the driving licence shall stand suspended for a period of one year under Section 20 of the Motor Vehicles Act.

2. The accused/petitioner was charge sheeted for offences under Sections 279 and 337 IPC and Sections 134(a) and 134(b) of the Motor Vehicles Act. According to the prosecution, the accused drove a scooter in a rash and negligent manner along the public road from east to west and hit against two school children, who were walking along the northern side of the road from west to east. The scooter allegedly went to the wrong side and hit against the pedestrians who sustained injuries in the accident. They were examined by the doctors, PW1 and PW2. From the hospital the first information statement was given by PW5. The other

injured is PW6. PW7 is an eye witness to the occurrence. PW3 is also another eye witness to the occurrence.

3. PW5, PW6 and PW7 supported the prosecution case and gave evidence consistent with the same. Their evidence was believed by both the courts below. On going through the evidence, it is clear that they have stood the test of cross-examination and nothing has taken veracity. Their evidence amply prove that the accident occurred as alleged by the prosecution. It is clear from the evidence that the accused has gone to the wrong side and the children were walking along the extreme northern side of the road (which is on the wrong side of the scooter) and hit against PW5 and PW6. The accused did not give any explanation for going to the wrong side and hit against PW5 and PW6. His action amounts to rash and negligent driving which resulted in injuries to PW5 and PW6.

4. Though PW5 has no external injury, she was admitted and treated in the hospital. She suffered pain. PW6 had a contusion and she was also treated in the hospital. On considering the nature of evidence, the manner in which the offence was committed, the absence of any explanation of the accused for going to the extreme side of the road or the rashness and negligence attributed to his driving, the court below has convicted the accused for offences under Sections 279 and 337 IPC. I find no illegality or impropriety in the said finding of guilt.

5. It has also been brought out in evidence that the accused neither

informed the police nor gave any medical aid to the injured after the accident. The evidence establishes commission of offences under Sections 134(a) and 134(b) of the Motor Vehicles Act. The conviction under the said Sections can also be sustained and there is no reason to interfere with the same.

6. However, learned counsel appearing for the revision petitioner pointed out that the sentence is not in accordance with the provisions. The maximum fine which can be awarded under Sections 279 and 337 IPC are Rs.1,000/- and Rs.500/- respectively. But the lower appellate court modified the sentence by setting aside the imprisonment and sentenced the accused to pay a fine of RS.2,000/- each for offences under Sections 279 and 337 IPC. Evidently the sentence awarded is illegal. Since it was exceeded the maximum fine which can be awarded for the said offences, the sentences deserve to be interfered with and reduced.

7. It is also submitted by learned counsel for revision petitioner that the driving licence is suspended for a period of one year under Section 20 of the Motor Vehicles Act. Considering the nature of injuries sustained and the punishment already awarded, giving a sentence of maximum fine and taking into consideration long pendency of the proceedings and the fact that the petitioner was not involved in any other offence in similar nature, I find that the order passed under Section 20 of the Motor Vehicles Act deserves interference.

8. Hence, sentence passed against petitioner is modified as follows :-

(i) Petitioner is sentenced to pay a fine of Rs.1,000/- and Rs.500/- each for offences under Sections 279 and 337 IPC. Sentence of fine of Rs.500/- each imposed under Sections 134(a) and 134(b) of the Motor Vehicles Act is confirmed. [it is to be noted that the provision is wrongly noted as Section 135A, instead of Section 134(a) in the impugned judgment].

(ii) The driving licence shall stand suspended for a period of six months under Section 20 of the Motor Vehicles Act and the order passed under the said Section is modified accordingly.

In the result, this revision petition is partly allowed.

K.HEMA, JUDGE

vgs.